

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

CONSTRUCTION INDUSTRY	)	
LABORERS PENSION FUND, et al.	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No. 4:15-CV-00117-ODS
	)	
McCLAN CONSTRUCTION, LLC,	)	
	)	
Defendant.	)	

ORDER DENYING PLAINTIFFS' MOTION TO ENFORCE  
TERMS OF SETTLEMENT AGREEMENT

The Court dismissed this matter without prejudice on September 14, 2015, because the parties failed to file a Proposed Scheduling Order/Discovery Plan ("Proposed Plan") as directed by the Court on two prior occasions. Doc. #14. On November 16, 2015, Plaintiffs filed a motion to enforce the terms of a settlement agreement. Doc. #16. Defendant did not respond to Plaintiffs' motion.

On December 8, 2015, the Court directed the parties to demonstrate the basis of the Court's jurisdiction to enforce the settlement agreement pursuant to *Kokkonen v. Guardian Life Insurance Co. of America*, 511 U.S. 375, 380-81 (1994). Only Plaintiffs responded to the Court's Order. Doc. #18. Instead of setting forth a basis for jurisdiction, Plaintiffs asked that the Court amend its prior dismissal order to state it retains jurisdiction over the enforcement of the settlement because of an error committed by Plaintiffs in docketing.

The Court denies Plaintiffs' request to amend the dismissal order. Although given ample opportunity to do so, at no time prior to the dismissal of this matter did the parties inform the Court that this matter had been resolved. Instead, the parties ignored two orders directing them to file a Proposed Plan. This failure alone resulted in the dismissal of this matter.

Plaintiffs contend that a docketing error caused it to miss the extended deadline to file the Proposed Plan. Plaintiffs, however, do not explain why the first deadline to file

the Proposed Plan was missed. Additionally, Plaintiffs do not explain why the parties failed to contact the Court about the resolution of the matter, why the parties failed to file a stipulation of dismissal, or why the parties failed to seek amendment of the dismissal order immediately upon its entry. Plaintiffs have failed to meet their burden under Rule 60(b) of the Federal Rules of Civil Procedure.

The parties have failed to set forth a basis for the Court's jurisdiction to enforce the terms of the settlement. Accordingly, Plaintiffs' motion to enforce the terms of the settlement agreement in this matter is denied.

IT IS SO ORDERED.

DATE: December 30, 2015

/s/ Ortrie D. Smith  
ORTRIE D. SMITH, SENIOR JUDGE  
UNITED STATES DISTRICT COURT